

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

EDWARD PITRE,

INDEX NO.: 157588/2015

Plaintiff,

-against-

**MORNINGSIDE HEIGHTS SN, LLC and J&F
MEAT MARKET CORP.,**

Defendants.

THIRD-PARTY INDEX NO.:

**MORNINGSIDE HEIGHTS SN, LLC and J&F
MEAT MARKET CORP.,**

Third-Party Plaintiff,

-against-

**CITY OF NEW YORK, FIRE DEPARTMENT
OF NEW YORK CITY AND FELIX GARCIA**

Third-Party Defendants.

**NOTICE OF COMMENCEMENT OF ACTION SUBJECT TO
MANDATORY ELECTRONIC FILING**

PLEASE TAKE NOTICE that the matter captioned above has been commenced as an electronically filed case in the New York State Courts Electronic Filing System ("NYSCEF") as required by CPLR § 2111 and Uniform Rule § 202.5-bb (mandatory electronic filing). This notice is being served as required by that rule.

NYSCEF is designed for the electronic filing of documents with the County Clerk and the court and for the electronic service of those documents, court documents, and court notices upon counsel and unrepresented litigants who have consented to electronic filing.

Electronic filing offers significant benefits for attorneys and litigants, permitting papers to be filed with the County Clerk and the court and served on other parties simply, conveniently, and quickly. NYSCEF case documents are filed with the County Clerk and the court by filing on the NYSCEF Website, which can be done at any time of the day or night on any day of the week.

The documents are served automatically on all consenting e-filers as soon as the document is uploaded to the website, which sends out an immediate email notification of the filing.

The NYSCEF System charges no fees for filing, serving, or viewing the electronic case record, nor does it charge any fees to print any filed documents. Normal filing fees must be paid, but this can be done on-line.

Parties represented by an attorney: An attorney representing a party who is served with this notice must either: 1) immediately record his or her representation within the e-filed matter on the NYSCEF site; or 2) file the Notice of Opt-Out form with the clerk of the court where this action is pending. Exemptions from mandatory e-filing are limited to attorneys who certify in good faith that they lack the computer hardware and/or scanner and/or internet connection or that they lack (along with all employees subject to their direction) the operational knowledge to comply with e-filing requirements. [Section 202.5-bb(e)]

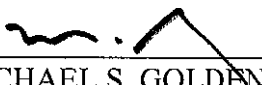
Parties not represented by an attorney: Unrepresented litigants are exempt from e-filing. They can serve and file documents in paper form and must be served with documents in paper form. However, an unrepresented litigant may participate in e-filing.

For information on how to participate in e-filing, unrepresented litigants should contact the appropriate clerk in the court where the action was filed or visit www.nycourts.gov/efile-unrepresented. Unrepresented litigants also are encouraged to visit www.nycourthelp.gov or contact the Help Center in the court where the action was filed. An unrepresented litigant who consents to e-filing may cease participation at any time. However, the other parties may continue to e-file their court documents in the case.

For additional information about electronic filing and to create a NYSCEF account, visit the NYSCEF website at www.nycourts.gov/efile or contact the NYSCEF Resource Center (phone: 646-386-3033; e-mail: efile@nycourts.gov).

Dated: New York, New York
March 2, 2017

Yours, etc.



MICHAEL S. GOLDENBERG
Attorneys for Defendants/Third Party Plaintiffs
Morningside Heights SN, LLC and J&F Meat
Market Corp.
BRAFF, HARRIS, SUKONECK & MALOOF
305 Broadway, 7th Fl.
New York, New York 10007
(212) 599-2085
Our File No. 754.20594

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

EDWARD PITRE,

INDEX NO.: 157588/2015

Plaintiff,

-against-

NOTICE PURSUANT TO
CPLR § 3402(b)

MORNINGSIDE HEIGHTS SN, LLC and J&F
MEAT MARKET CORP.,

Defendants.

THIRD-PARTY INDEX NO.:

MORNINGSIDE HEIGHTS SN, LLC and J&F
MEAT MARKET CORP.,

Third-Party Plaintiff,

-against-

CITY OF NEW YORK, FIRE DEPARTMENT
OF NEW YORK CITY AND FELIX GARCIA

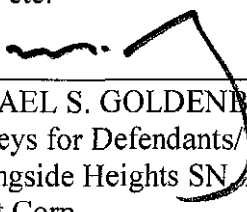
Third-Party Defendants.

PLEASE TAKE NOTICE, that in the above-entitled actions pursuant to Section 3402(b) of the CPLR, the Defendants/Third Party Plaintiffs, Morningside Heights SN, LLC and J&F Meat Market Corp., by service of a Third-Party Summons and Complaint has impleaded City of New York, Fire Department of New York City and Felix Garcia as Third-Party Defendants and that the caption has been changed to read as above entitled. A copy of this statement has been served upon all the attorneys appearing in this action as of this date.

This Case has not been noticed for trial.

Dated: New York, New York
March 2, 2017

Yours, etc.


MICHAEL S. GOLDENBERG

Attorneys for Defendants/Third Party Plaintiffs
Morningside Heights SN LLC and J&F Meat
Market Corp.

BRAFF, HARRIS, SUKONECK & MALOOF

305 Broadway, 7th Fl.

New York, New York 10007

(212) 599-2085

Our File No. 754.20594

**TO: City of New York
100 Church Street
New York, NY 10007**

**Fire Department of New York City
9 Metrotech Center
Brooklyn, NY 11201**

**Felix Garcia
3151 Perry Avenue, Apartment 5B
Bronx, New York 10467**

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

EDWARD PITRE,

INDEX NO.: 157588/2015

Plaintiff,

-against-

THIRD-PARTY SUMMONS

**MORNINGSIDE HEIGHTS SN, LLC and J&F
MEAT MARKET CORP.,**

Defendants.

**MORNINGSIDE HEIGHTS SN, LLC and J&F
MEAT MARKET CORP.,**

THIRD-PARTY INDEX NO.:

Third-Party Plaintiff,

-against-

**CITY OF NEW YORK, FIRE DEPARTMENT
OF NEW YORK CITY AND FELIX GARCIA**

Third-Party Defendants.

To the above named Third Party Defendants:

**City of New York
100 Church Street
New York, NY 10007**

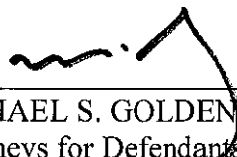
**Fire Department of New York City
9 Metrotech Center
Brooklyn, NY 11201**

**Felix Garcia
3151 Perry Avenue, Apartment 5B
Bronx, NY 10467**

YOU ARE HEREBY SUMMONED to answer the complaint in this third-party action, and to serve a copy of your answer, or if the Complaint is not served with this summons, to serve a notice of appearance on the Third-Party Plaintiff's attorney, within twenty days after the service of this summons, exclusive of the day of service, where service is made by delivery upon you personally within the state, or, within thirty days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: New York, New York
March 2, 2017

Yours, etc.



MICHAEL S. GOLDENBERG
Attorneys for Defendants/Third Party Plaintiffs
Morningside Heights SN, LLC and J&F Meat
Market Corp.

BRAFF, HARRIS, SUKONECK & MALOOF
305 Broadway, 7th Fl.
New York, New York 10007
(212) 599-2085
Our File No. 754.20594

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

EDWARD PITRE,

Plaintiff,

-against-

**MORNINGSIDE HEIGHTS SN, LLC and J&F
MEAT MARKET CORP.,**

Defendants.

INDEX NO.: 157588/2015

THIRD-PARTY COMPLAINT

**MORNINGSIDE HEIGHTS SN, LLC and J&F
MEAT MARKET CORP.,**

Third-Party Plaintiff,

-against-

**CITY OF NEW YORK, FIRE DEPARTMENT
OF NEW YORK CITY AND FELIX GARCIA**

Third-Party Defendants.

THIRD-PARTY INDEX NO.:

The Defendants/Third-Party Plaintiffs, Morningside Heights SN, LLC and J&F Meat Market Corp., by their attorneys Braff, Harris, Sukoneck & Maloof, states as follows:

1. That at all times hereinafter mentioned, third party defendant City of New York was a domestic entity, duly organized and existing under and by virtue of the laws of the State of New York.
2. That at all times hereinafter mentioned, third party defendant Fire Department of New York City was a domestic entity, duly organized and existing under and by virtue of the laws of the State of New York.

3. That at all times hereinafter mentioned, Felix Garcia, was an individual residing in the State of New York employed by the City of New York and/or the Fire Department of New York City.

**AS AND FOR A CAUSE OF ACTION AGAINST CITY OF NEW YORK, FIRE
DEPARTMENT OF NEW YORK CITY AND FELIX GARCIA**

1. The plaintiff, Edward Pitre, has instituted an action against the defendant/third party plaintiffs Morningside Heights SN, LLC and J&F Meat Market Corp. It is alleged that on February 27, 2015, the plaintiff was injured when he fell upon premises located at 1975 Amsterdam Avenue, New York, New York. A copy of the Verified Complaint is attached hereto as Exhibit "A."

2. Immediately before arriving at the premises located at 1975 Amsterdam Avenue, New York, New York, the plaintiff was a passenger in a vehicle owned, leased, operated, used, controlled and/or maintained by the City of New York, the Fire Department of New York City and/or Felix Garcia.

3. At all times mentioned herein, when Felix Garcia operated, used and/or controlled the aforementioned vehicle, he was an agent, servant, and/or employee of the City of New York and/or Fire Department of New York City.

4. At all times mentioned herein, when Felix Garcia operated, used and/or controlled the aforementioned vehicle, he was within the scope of his employment with the City of New York and/or the Fire Department of New York City.

5. In connection with his employment with the City of New York and/or the Fire Department of New York City, Felix Garcia was trained, supervised, and/or directed in such duties, responsibilities and/or requirements by third party defendants City of New York and/or

Fire Department of New York City relative to his use, operation, and control of the aforementioned vehicle.

6. The plaintiff's injuries occurred as he exited the aforementioned vehicle due to the negligence, carelessness, and/or recklessness of the City of New York, the Fire Department of New York City and/or Felix Garcia.

7. At all times mentioned herein, the City of New York and/or Fire Department of New York City are vicariously liable for the negligence, carelessness, and/or recklessness of Felix Garcia.

8. That if the plaintiff was caused to sustain damages and injuries at the time and place set forth in the plaintiff's Complaint, all of which has been denied by the defendant/third party plaintiff, through any negligence or carelessness other than plaintiff's own negligence or carelessness, then such damages and injuries were caused by the active, primary and original negligence of the third party defendants, City of New York, Fire Department of New York City and/or Felix Garcia.

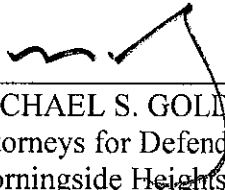
9. By reason of the foregoing, the defendants/third party plaintiffs are entitled to recover by way of indemnification and/or contribution, in whole or in part, from the third party defendants, City of New York, Fire Department of New York City and/or Felix Garcia, for the full amount of any recovery herein by the plaintiff or for that proportion thereof caused by the relative culpability of the said third party defendant, and the said third party defendant is bound to pay any and all attorneys' fees, costs of investigation and disbursements of this action.

WHEREFORE, defendant/third-party plaintiffs, Morningside Heights SN, LLC and J&F Meat Market Corp., demand judgment over and against the third-party defendants, City of New York, Fire Department of New York City, and Felix Garcia on the first cause of action, for

all or any part of any judgment or verdict rendered against it, together with the costs and disbursements of this action including reasonable attorney's fees and costs of investigation.

Dated: New York, New York
March 2, 2017

Yours, etc.



MICHAEL S. GOLDENBERG
Attorneys for Defendants/Third Party Plaintiffs
Morningside Heights SN, LLC and J&F Meat
Market, Corp.

BRAFF, HARRIS, SUKONECK & MALOOF
305 Broadway, 7th Fl.
New York, New York 10007
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Our File No. 754.20594

**TO: City of New York
100 Church Street
New York, NY 10007**

**Fire Department of New York City
9 Metrotech Center
Brooklyn, NY 11201**

**Felix Garcia
3151 Perry Avenue, Apartment 5B
Bronx, New York 10467**

ATTORNEY'S VERIFICATION

The undersigned, an attorney, admitted to practice law in the State of New York, affirms under penalty of perjury as follows:

That affirmant is an associate with the firm of Braff, Harris, Sukoneck & Maloof attorneys for Defendants/Third Party Plaintiffs, Morningside Heights SN, LLC and J&F Meat Market, Corp., in the within action; that affirmant has read the foregoing Third Party Complaint and knows the contents thereof; that the same is true to affirmant's knowledge; and that as to those matters, affirmant believes them to be true.

Affirmant further states that the reason this Verification is made by affirmant and not by the Defendants/Third Party Plaintiffs is that the Defendants/Third Party Plaintiffs either do not reside or maintain offices in the County in which affirmant maintains his office.

The undersigned affirms that the foregoing statements are true under the penalties of perjury.

DATED: New York, New York
March 2, 2017



MICHAEL S. GOLDENBERG